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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/858,265	05/15/2001	Philip R. McKee	068038.0108	2671

7590 12/05/2003
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EXAMINER

LE, NHAN T

ART UNIT	PAPER NUMBER
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2685

DATE MAILED: 12/05/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/858,265

Applicant(s)

MCKEE ET AL.

Examiner

Nhan T Le

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-21 and 26-29 is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-13 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 14 and 22-25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claims 22-25 are objected to because of the following informalities: Independent claim 21 discloses "A node". However, dependent claims 22-25 discloses "The transceiver node". Therefore, "The transceiver node" should be changed to "The node" in claims 22-25. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 2, 3 are rejected under 35 U.S.C. 102(e) as being anticipated by Nelson (US 6,333,690).

As to claim 1, Nelson teaches a system for detecting a presence and its duration in a given area, comprising: a mobile transmitter operable to periodically send a beacon signal having an unique identification code (see fig. 1, number 110, col. 4, lines 24-25), a node at a location within a given area, the node including a receiver operable to receive the beacon signal and the unique identification code from the mobile transmitter in response to the mobile transmitter being within a threshold distance of the node (see fig. 1, number 130, see col. 4, lines 23-29).

It is noted that the recitation "duration" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

As to claim 2, Nelson further teaches that the mobile transmitter uses a radio frequency transmission technique (see fig. 14, number 1410, col. 12, lines 51-59).

As to claim 3, Nelson further teaches the system of claim 1, wherein the node includes a transmitter operable to transmit an information signal to a base unit in response to receipt of the beacon signal, the information signal including information as to the unique identification code of the mobile transmitter and an identification code of the node (see col. 7, lines 6-13).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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2. Claims 4, 7, 8, 9, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (US 6,333,690) as applied to claim 1 above in view of Koshima (US 6,415,155).

As to claim 4, Nelson fails to teach the system of claim 1, wherein the information signal includes a signal strength of the received beacon signal as determined by the node. Koshima teaches the information signal includes a signal strength of the received beacon signal as determined by the node (see col. 3, lines 33-37). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Koshima into the system of Nelson in order to improve the accuracy for identify the position of a mobile terminal (see col. 2, lines 38-45, as suggested by Koshima).

As to claim 7, the combination of Nelson and Koshima further teaches the system of claim 1, wherein the node is operable to periodically send information signal to the base unit (see Koshima col. 8, lines 41-46).

As to claims 8,9, Nelson fails to teach teaches the system of claim 1, wherein the node is operable to send the information signal in response to a triggering event; the triggering event is a receipt of a request from base the base unit. Koshima teaches the system of claim 1, wherein the node is operable to send the information signal in response to a triggering event; the triggering event is a receipt of a request from the base unit (see col. 6, lines 26-33). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Koshima into the system of Nelson in order to identify the possible location range of the

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mobile terminal as desired by the base unit (see. col. 4, lines 16-24, as suggested by Koshima).

As to claim 13, Nelson fails to teach the system of claim 1, wherein the node continuously scans for the beacon signals. Koshima teaches the system of claim 1, wherein the node continuously scans for the beacon signals (see col. 3, lines 40-42). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Koshima into the system of Nelson in order to accurately monitor the mobile location.

3. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (US 6,333,690) as applied to claim 1 above in view of Neyhart (US 5,939,988).

As to claim 10, Nelson fails to teach the system of claim 1, wherein the threshold distance is programmably adjustable. Neyhart teaches the system of claim 1, wherein the threshold distance is programmably adjustable (see col. 3, lines 47-51). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Neyhart into the system of Nelson in order to vary the distance at which the threshold condition occurs.

4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (US 6,333,690) as applied to claim 1 above in view of Sallen (US 5,661,460).

As to claim 11, Nelson fails to teach the system of claim 1, wherein the node is operable to compare a signal strength of each beacon signal received to a reference signal strength associated with the desired threshold range in order to identify whether the mobile transmitter is within the threshold range of the node and a proximity of the

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mobile transmitter within the threshold range. Sallen teaches the system of claim 1, wherein the node is operable to compare a signal strength of each beacon signal received to a reference signal strength associated with the desired threshold range in order to identify whether the mobile transmitter is within the threshold range of the node and a proximity of the mobile transmitter within the threshold range (see col. 1, lines 20-27, col. 2, lines 65-67. col. 3, lines 1-10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Sallen into the system of Nelson in order to locate the mobile transmitter.

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson (US 6,333,690) as applied to claim 1 above in view of Cox (US 4,598,272).

As to claim 12, Nelson fails to teach the system of claim 1, wherein the mobile transmitter and the node are each powered by discardable standard batteries. Cox teaches the system of claim 1, wherein the mobile transmitter and the node are each powered by discardable standard batteries (see fig.1, child, number 14, parent, number 16, col. 3, lines 45-48). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Cox into the system of Nelson in order to replace the system power easier and cheaper.

Allowable Subject Matter

Claims 5, 6, 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As to claims 5, 6, the applied reference fails to teach a duration of presence of the mobile transmitter within the threshold distance of the node in response to one or more informational signals.

As to claim 14, the applied reference fails to teach the bacon signal attenuates at a rate of $1/r^3$ with the desired threshold range, where r is a distance between the mobile transmitter and the node.

Claims 15-21, 26-29 are allowed:

Regarding to claims 15, 21, 26, Nelson (US 6,333,690) teaches wide area multipurpose tracking system, Koshima (US 6,415,155) teaches location system and method for identifying position of mobile terminal that can communicate base on repeater in radio zone, and mobile terminal that can communicate based on repeater in radio zone, Cox (US 4,598,272) teaches electronic monitoring apparatus, Neyhart (US 5,939,988) teaches child proximity monitor and alarm, Sallen (US 5,661,460) teaches distance determination and alarm system. The teaching of these prior arts either combine or alone fails to teach the determination how long a mobile transmitter was within the desired threshold range in response to a number of beacon signals received.

Dependent claims 16-20, 27-29 are allowable for the same reason.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Crimmins (US 5,917,425) teaches IR/IF locator.

Unger (US 5,458,123) teaches system for monitoring patient location and data.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nhan T Le whose telephone number is 703-305-4538. The examiner can normally be reached on 08:00-05:00 (Mon-Fri).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on 703-305-4385. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Nguyen Vo
11-30-2003

Nhan Le

NGUYENT.VO
PRIMARY EXAMINER